

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICAH ANDERSON,

Plaintiff,

vs.

LANCE FRITZ, and UNION PACIFIC
CORPORATION,

Defendants.

8:22CV369

MEMORANDUM AND ORDER

This matter is before the Court on a Motion seeking additional time to respond to this Court's May 1, 2024, order to show cause (the "Order to Show Cause"), [Filing No. 25](#), which Plaintiff previously failed to respond to (the "Motion"). [Filing No. 27](#). For the reasons that follow, the Motion, [Filing No. 27](#), shall be denied, and the case shall remain closed.

On August 9, 2023, this Court performed an initial review of Plaintiff's Complaint at [Filing No. 1](#), and finding it severely deficient, ordered Plaintiff to file an amended complaint by September 8, 2023, or face dismissal of his case without further notice. [Filing No. 19](#). After the deadline to amend had passed without any action by Plaintiff, on October 3, 2023, Plaintiff's case was dismissed without prejudice for failure to prosecute. [Filing No. 20](#).

The following month Plaintiff filed what this Court construed as a motion for relief from judgment under [Fed. R. Civ. P. 60\(b\)](#). [Filing No. 24](#). In the Motion for Relief Plaintiff sought the reopening of this case so he could amend his complaint in compliance with this Court's August 9, 2023, Memorandum and Order. [Id.](#) In support Plaintiff argued that he had been unable to comply with the August 9 Memorandum and Order due to his

having been held in segregation and having transferred correctional institutions (the “Motion for Relief”). [Filing No. 24](#).

In consideration of the Motion for Relief this Court issued the Order to Show Cause requiring Plaintiff to show cause why he should obtain relief from the Court’s judgment of dismissal by specifying the dates he was held in segregation and when he was transferred to his new facility. [Filing No. 25](#). Plaintiff was given until June 17, 2024, to submit a response and was warned that any failure to respond would result in the denial of the Motion for Relief and the continued closure of the case. *Id.* Plaintiff again failed to reply to the Order to Show Cause or take any action in this matter. As a result, on July 26, 2024, the Court denied the Motion for Relief for failure to comply with the Order to Show Cause and the case remained closed. [Filing No. 26](#).

Less than two weeks after the Motion for Relief was denied, on August 8, 2024, Plaintiff filed the Motion currently before this Court seeking a second chance to comply with the Order to Show Cause. [Filing No. 27](#). Plaintiff argues that due to his placement in segregation and an investigation into his mail by prison officials, he was unable to respond to the Order to Show Cause until four days after the deadline to do so had passed as he was not released from segregation until July 30, 2024. [Filing No. 27](#). Plaintiff further asserts that he has access to mail and seeks to move forward with his case, providing an updated address at a new facility, and seeking 60 additional days in which to comply. *Id.* at 1.

As it remained unclear as to when Plaintiff moved facilities or was placed in segregation and how that affected his ability to respond to multiple orders of this Court, this Court again granted Plaintiff through and until December 2, 2024, to respond to the

May 1, 2024, Order to Show Cause and explain why Plaintiff should obtain relief from the Court's judgment of dismissal. [Filing No. 28](#).

On November 20, 2024, Plaintiff sought additional time to comply. See [Filing No. 29](#). In response Plaintiff was given an additional 45-days to comply but was warned that no further extensions would be granted absent a showing of extraordinary circumstances and that a failure to comply would result in a denial of Plaintiff's August 8, 2024, Motion and the case remaining closed. [Filing No. 30](#).

Once again Plaintiff has not filed a response to the Show Cause Order or taken any other action in this matter, and the time to do so has passed.

IT IS THEREFORE ORDERED that: Plaintiff's Motion, [Filing No. 27](#), is denied without prejudice due to Plaintiff's failure to comply with the Show Cause Order. This matter shall remain closed.

Dated this 3rd day of January, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon
Senior United States District Court